

**MINUTES of a MEETING  
of the  
DALWORTHINGTON GARDENS  
CITY COUNCIL  
Thursday, August 18, 2005  
7:00 P.M.**

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A regular meeting of the City Council was held at **7:00 o'clock p.m.** on **Thursday, August 18, 2005** in the **Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas.** The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

**Members Present:**

Albert A. Taub- Mayor  
Mike Pettke- Councilman  
Ken Wallace- Councilman  
Michael Tedder- Councilman  
Jim Piland- Councilman

**Members Absent-**

Guy Snodgrass- Mayor Pro tem

**Staff Present**

Bill Waybourn- Chief of Public Safety  
Stan Wilkes- City Attorney  
Samantha Abel- Chief's assistant

**CALL TO ORDER-** Mayor Taub called the meeting to order at 7:10 p.m.

**(Agenda Item 1) Mayor Proclamations- present proclamation for Constitution Week.**

**(Agenda Item 2) Citizen comments**

Kathy Price, 2820 Whisperwood Trail, chairman of the Park Board, stated that the board would like to have 2 items on the September agenda concerning donations and volunteer packets. She gave a Park Board status report, and the date of Gardens' Gathering.

**(Agenda Item 3) Mayor and Council comments**

Councilman Wallace stated that he agreed with Kathy Price in reference to the agenda, and would like to see the requested items on the September agenda.

**(Agenda Item 4) Departmental Reports and July Financial Report**

On motion by Councilman Pettke, seconded by Councilman Tedder, it was:

**RESOLVED**, that that the departmental and financial reports for the month of July, be approved and placed in the records of the City.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 5) Minutes of July 21<sup>st</sup> Meeting**

On motion by Councilman Pettke, seconded by Councilman Tedder, it was:

**RESOLVED**, that the minutes of the meeting of the City council held on July 21st, 2005 be approved and placed in the records of the City.

The motion passed by a vote of 4 ayes and 0 nays.

**The Mayor asked that Council next take up agenda item 7.**

**(Agenda Item 7) (Tabled) Public Hearing: PD Final Development Plan, Lot 1, Block 1 of the Gardens Town Center, Resolution 05-49**

On motion by Councilman Pettke, seconded by Councilman Tedder, by a vote of 4 ayes and 0 nays, the PD Final Development Plan for Lot 1, Block 1 of the Gardens Town Center was removed from the table.

The Mayor opened the public hearing at 7:21 and asked for public comment. The following persons spoke at the public hearing:

- Cathy Stein, 2622 Clover Lane.
- Steve Crudup, 10B Twin Lakes Court
- Coy Garrett, 1309 West Abram Street, Suite 200
- Brad Bowen, 1861 Brown Blvd., PMB 727, Arlington
- Chad Stanford, 14450 Trinity Blvd., suite 300, Ft. Worth

There being no one else asking to speak, the Mayor closed the public hearing at 7:32 pm.

Mayor and Council discussion included the following: Use of tile on the canopy and the weight factor; wider columns and a pitched canopy; wall signs on the proposed plan; sequence of fence construction; and, amount of landscaping on site.

After the discussion, on motion by Councilman Pettke, seconded by Councilman Wallace, it was:

**RESOLVED**, that the PD Final Development Plan for Lot 1, Block 1 of The Gardens Town Center be approved as submitted by the applicant, subject to the addition of a tree in the southeast corner of the lot; and the removal of the "QT" button signs on the left and right sides of the building's east facade.

**BE IT FURTHER RESOLVED**, that the City Secretary shall maintain on file a copy of all drawings, plans and other documents submitted by the applicant for approval of the Plan as it relates to Lot 1, Block 1, and that the same are hereby incorporated in the plan for all purposes.

The motion passed by a vote of 3 ayes and 1 nay, Councilman Piland voting nay.

**(Agenda Item 6) (Tabled) Public Hearing: Final Plat, Lot 1, Block 1, The Gardens Town Center, Resolution 05-50.**

On motion by Councilman Piland, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, the Final Plat, Lot 1, Block 1, The Gardens Town Center was removed from the table.

The Mayor opened the public hearing on the Final Plat at 8:37 and asked for public comment. The following personsu spoke at the public hearing:

Coy Garrett, 1309 West Abram Street, Suite 200

There being no other persons present asking to address the City Council on this subject the Mayor declared the public hearing closed at 8:38 pm.

On motion by Councilman Piland, seconded by Councilman Tedder, it was:

**RESOLVED**, that the Final Plat, Lot 1, Block 1, The Gardens Town Center be approved and placed in the records of the City.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 8) (Tabled) Ordinance 05-11 establishing senior citizen tax exemption**

On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 4 ayes and 0 nays, proposed Ordinance 05-11 establishing a senior citizen tax exemption was removed from the table.

After discussion, Councilman Tedder, seconded by Councilman Pettke, moved the adoption of the following ordinance:

**ORDINANCE #05-11**

AN ORDINANCE AMENDING 3.1.04 OF CHAPTER 3.1 - PROPERTY TAXATION, OF TITLE 3: REVENUE AND TAXATION, OF THE CODE OF THE CITY OF DALWORTHINGTON GARDENS; APPROVING AD VALOREM TAX EXEMPTION FOR THE ELDERLY OR DISABLED; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That 3.1.04, Exemptions, of Chapter 3.1 - PROPERTY TAXATION, of TITLE 3: REVENUE AND TAXATION, of the City Code be amended so that hereafter the same shall be and read as follows:

Exemptions

3.1.04.1 Pursuant to Article VIII, Section I-b of the Texas Constitution and Section 11.13 of the Texas Property Tax Code, as amended, the governing body of a city or town may exempt from ad valorem taxation by its own action not less than Three Thousand Dollars (\$3,000) of the market value of a residence homestead of an individual who is disabled or is 65 or older. A surviving spouse is entitled to the exemption for the residence homestead if (a) the deceased spouse died in a year in which the deceased spouse received the exemption; (b) the surviving spouse was 55 or older when the deceased spouse died; and (c) the property was and remains the residence homestead of the surviving spouse.

3.1.04.2 Pursuant to Article VIII, Section I-b of the Texas Constitution and Section 11.13 of the Texas Property Tax Code, if an individual qualifies for an exemption under Article 1 because the individual is disabled or is sixty-five (65) years of age or older, he/she is entitled to exemption from ad valorem taxation by the City of Dalworthington Gardens of an additional \$57,000.00 for a total of \$60,000.00 of the appraised value of the residence homestead of the individual for tax year 2005.

"Disabled" means under a disability for purposes of payment of disability insurance under Federal Old-Age, Survivors, and Disability Insurance.

An eligible disabled person who is sixty-five (65) years of age or older may not receive both the disabled and elderly exemption, but may choose either. If two or more individuals who are eligible for an exemption under this Article own the same residence homestead, the exemptions for each may not be combined and only one (1) owner may receive the exemption. Eligibility for this exemption is determined by an individual's and his or her residence's qualifications on January 1, 2005.

3.1.04.3 Applications for exemption shall be made pursuant to Section 11.43 of the Texas Property Tax Code, and pursuant to the rules and regulations of the Tarrant Appraisal District and the Tarrant County Tax Assessor-Collector.

3.1.04.4 Exemptions recognized and established herein shall be effective until altered or appealed by the City Council of the City of Dalworthington Gardens.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 9) (Tabled) Employee insurance and health savings accounts**

On motion by Councilman Pettke, seconded by Councilman Wallace, it was:

**RESOLVED**, that the matter of Employee insurance and health savings accounts shall remain tabled.

The motion passed with 4 ayes, and 0 nays.

**(Agenda Item 10) (Tabled) Status report on Dustin Trail repair**

On motion by Councilman Tedder, seconded by Councilman Wallace, by a vote of 4 ayes and 0 nays, the status report on Dustin Trail repair was removed from the table.

The motion passed by a vote of 4 ayes and 0 nays.

After discussion, on motion by Councilman Wallace, seconded by Councilman Tedder, it was:

**RESOLVED**, that the report of the Dustin Trail repair from Greg Saunders, the City Engineer, be accepted and placed in the records of the City.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 11) Resolution #05-51, Interlocal Agreement with Arlington Independent School District for truancy enforcement**

On motion by Councilman Pettke, seconded by Councilman Wallace, it was:

**RESOLVED**, that the Mayor is hereby authorized to execute on behalf of the City an Interlocal Agreement with Arlington Independent School District for truancy enforcement.

**RESOLVED FURTHER**, that the City Secretary is hereby authorized to attest to the execution of the agreement and to affix the seal of the City thereto.

**RESOLVED FURTHER**, that a copy of the agreement shall be appended to the minutes of this meeting.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 12) Resolution 05- 52, Interlocal Agreement for Fire and Emergency Assistance with the City of Kennedale**

Councilman Piland made a motion, seconded Councilman Tedder, to adopt the following resolution:

**RESOLVED**, that the Mayor is hereby authorized to execute on behalf of the City an Interlocal Agreement with the City of Kennedale for fire and emergency assistance.

**RESOLVED FURTHER**, that the City Secretary is hereby authorized to attest to the execution of the agreement and to affix the seal of the City thereto.

**RESOLVED FURTHER**, that a copy of the agreement shall be appended to the minutes of this meeting.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 13) Resolution 05-53, approving the assignment of cable franchise from Comcast Franchise to Time Warner Cable Inc.**

Councilman Pettke, seconded by Councilman Wallace, moved the adoption of the following resolution:

**Resolution 05-53**

A RESOLUTION PROVIDING APPROVAL FOR A TRANSACTION INVOLVING COMCAST CORPORATION AND TIME WARNER CABLE INC.

WHEREAS, the City of Dalworthington Gardens, Texas ("Franchising Authority") has granted a cable television Franchise to an entity (the "Franchisee") presently controlled by Comcast Corporation ("Comcast"); and

WHEREAS, pursuant to an Exchange Agreement between Time Warner Cable Inc. ("Time Warner Cable"), Comcast and certain related entities, Comcast will cause the Franchisee to assign the cable system and franchise to C- Native Exchange II, LP ("New Franchisee"), which will become an indirect subsidiary of Time Warner Cable (the "Transaction"); and

WHEREAS, upon closing of the Transaction, the New Franchisee expressly agrees to assume the obligations under the Franchise; and

WHEREAS, Comcast and Time Warner Cable have filed an FCC Form 394 providing details regarding the Transaction and establishing the qualifications of the New Franchisee; and

WHEREAS, the Franchising Authority wishes to grant its approval for the Transaction as described above.

NOW, THEREFORE, BE IT RESOLVED:

- Section 1. The Franchising Authority hereby approves the Transaction.
- Section 2. Upon the closing of the Transaction, the New Franchisee shall assume the obligations under the Franchise.
- Section 3. This Resolution shall become effective immediately upon passage by the Franchising Authority.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 14) Resolution 05-54, adopting the implementation of the National Incident Management System.**

Councilman Pettke, seconded by Councilman Tedder, moved the adoption of the following resolution:

**Resolution 05-54**

A RESOLUTION ADOPTING THE IMPLEMENTATION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM.

WHEREAS, United States President George W. Bush in Homeland Security Presidential Directive-5 ("HSPD-5") directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System ("NIMS"), to provide a consistent nationwide approach for federal, state, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all federal, state, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, it is necessary that all federal, state, local, and tribal emergency management agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management, it is critical that federal, state, local, and tribal organizations utilize standardized terminology, standardized organizational structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel communications, facilities, and resources will improve the state's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the state, including all public safety and emergency response organizations training programs; and

WHEREAS, the National Commission of Terrorist Attacks ("9-11 Commission") recommended adoption of a standardized Incident Command System;

NOW THEREFORE, BE IT RESOLVED:

1.

That the National Incident Management System (NIMS) is hereby adopted to be utilized for all emergency incident management in the City.

2.

That the City's Department of Public Safety shall train all public safety response personnel and supervisors in the use of NIMS.

3.

That this resolution shall be in full force and effect immediately.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 15) Resolution 05-55, Authorizing an Interlocal Agreement with the City of Arlington for the improvement of Pleasant Ridge Rd.**

Councilman Pettke made a motion, seconded Councilman Wallace, to adopt the following resolution:

**Resolution 05-55**

**RESOLVED**, that the Mayor is hereby authorized to execute on behalf of the City an Interlocal Agreement with the City of Arlington for the improvement of Pleasant Ridge Road, provided that there is included therein language substantially as follows:

L. The CITIES agree that, in order to accommodate changes in traffic patterns on area streets during and after the project, a stop-and-go traffic signal (the "traffic signal") may be appropriate at the intersection of Arkansas Lane and Roosevelt Drive. Accordingly:

1. In the event that ARLINGTON should receive a grant of funds from Tarrant County for the purposes of the Pleasant Ridge Road project, ARLINGTON will provide all labor and equipment necessary for the installation of the traffic signal and will install the traffic signal as a part of the project without cost to the GARDENS.

2. In the event that ARLINGTON does not receive a grant

from Tarrant County as above-described, then at such time as GARDENS may request the traffic signal, the GARDENS will pay for all materials for the signal and provide right-of-way for the signal installation if required. ARLINGTON will provide all labor necessary for installation of the traffic signal and will install the same.

3. In the event that ARLINGTON should determine that the installation of the traffic signal is needed without financial participation of the GARDENS; the making of this agreement shall constitute the GARDENS' consent and authorization for ARLINGTON to make such installation at its sole cost.

4. Upon installation of the traffic signal, ARLINGTON will maintain the signal in good working condition; will provide electricity for its operation; and, will cause the signal to operate under prevailing traffic conditions in accordance with generally accepted traffic engineering principles.

**RESOLVED FURTHER**, that the City Secretary is hereby authorized to attest to the execution of the agreement and to affix the seal of the City thereto.

**RESOLVED FURTHER**, that a copy of the agreement shall be appended to the minutes of this meeting.

The motion passed with 4 ayes and 0 nays.

**(Agenda Item 16) Ordinance Amending 15.5 concerning Flood Damage Prevention-FEMA**

On motion by Councilman Tedder, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, the proposed ordinance amending 15.5 concerning Flood Damage Prevention- FEMA was tabled.

**(Agenda Item 17) Resolution 05-56, 2005 Street Improvements, Units 1-8**

On motion by Councilman Pettke, seconded by Councilman Tedder, it was:

**RESOLVED**, that the 2005 street improvements, units 1-8 be approved and the contract therefore be amended by Change Order adding thereto \$15,000 for the improvement of Sunset Lane, between Roosevelt Drive to Sieber Drive

### **Resolution 05-56**

A RESOLUTION APPROVING A CHANGE ORDER FOR THE 2005 STREET IMPROVEMENTS, UNITS 1-8 WITH JLB CONTRACTING, AND THE ADDITION OF \$15,000 FOR THE IMPROVEMENT OF SUNSET LANE, FROM ROOSEVELT DRIVE TO SIEBER DRIVE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

That Change Order #1 to the public works contract between the City and JLB Contracting is hereby approved, adjusting the unit price bid for 'Full-depth asphalt pavement repair' to account for bidding error by Contractor. The unit price bid of \$2.00 per SF is increased to \$3.00 per SF by this Change Order, resulting in a Contract increase of \$38,172 (\$1.00 x 38,172 SF).

The Contract revision hereby made maintains JLB Contracting as the low bidder by (\$61,477.24.)

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 18) Resolution 05-57 authorizing city participation regarding the New Diesel Rules and Formation of a Coalition.**

On motion by Councilman Pettke, seconded by Councilman Wallace, it was:

**RESOLVED**, that the City declines participation in a city coalition regarding the New Diesel Rules.

The motion passed by a vote of 4 ayes and 0 nays.

**(Agenda Item 19) ZBA Request for review of Title 17, Zoning concerning Required Side and Rear Yards.**

No action was taken.

**(Agenda Item 20) Future agenda items**

Councilman Wallace restated his request that the Park Board matters concerning donations and volunteers be placed on the agenda of the next City Council meeting.

**(Agenda Item 21) Adjourn**

On motion by Councilman Tedder, seconded by Councilman Piland, by a vote of 4 ayes and 0 nays, the meeting was adjourned at 9:25 p.m.

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Albert A. Taub, Mayor

ATTEST:

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Melinda G. Brittain, City Secretary